

Enrolled House Bill 2311

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Association of Oregon Counties, League of Oregon Cities, Oregon Collectors Association, Judicial Department, Oregon Justices of the Peace Association and Oregon Municipal Judges Association)

CHAPTER

AN ACT

Relating to interest on criminal judgments; creating new provisions; amending ORS 137.183 and 137.295; repealing ORS 1.190 and 1.192 and section 5, chapter 1064, Oregon Laws 1999; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 137.183 is amended to read:

137.183. *[Notwithstanding ORS 82.010, judgments in criminal actions bear interest at the rate of 12.5 percent per annum from the date of entry of the judgment for the first five years and four percent per annum thereafter. The clerk of the court shall calculate interest on each category of monetary obligation established by ORS 137.295 for the purpose of distribution of the interest in the manner provided in ORS 137.295. Interest shall accrue monthly on the first day of each month, beginning with the first day of the second full calendar month after the monetary obligation first becomes due.]*

(1)(a) Criminal judgments bear interest at the rate provided by ORS 82.010. Except as provided in paragraph (b) of this subsection, criminal judgments bear interest for a period of 20 years after the judgment is entered. Except as provided in paragraph (b) of this subsection, criminal judgments begin to accrue interest on the date the judgment is entered and do not bear interest after the expiration of the 20-year period.

(b) When a person is sentenced to a term of imprisonment, interest on a judgment in a criminal action does not begin to accrue until the first day of the second full calendar month after the person's initial release from custody following the sentencing in which the monetary obligation was imposed. If the judgment includes a money award for restitution, the judgment accrues interest for a period of 20 years after the first day of the second full calendar month after the person's initial release from custody following the sentencing in which the monetary obligation was imposed.

(2) The State Court Administrator may waive interest, or cause waiver of interest, on any criminal judgment or category of criminal judgments for the purpose of administering the collection of judgments of the Supreme Court, the Court of Appeals, the Oregon Tax Court and circuit courts. A judge of the Supreme Court, the Court of Appeals, the Oregon Tax Court or a circuit court may waive interest in any criminal action or proceeding for good cause shown.

(3) A municipal judge may waive interest on any criminal judgment, or category of criminal judgments, entered in the municipal court in which the judge presides. A justice of

the peace may waive interest on any criminal judgment, or category of criminal judgments, entered in the justice court in which the justice of the peace presides.

(4) A waiver under subsection (2) or (3) of this section may be for all or part of the interest payable on a criminal judgment and may be for a specified period of time.

(5) All payments collected under a criminal judgment must first be applied against the principal amount of a money award. Payments may be applied against interest on the money award only after the principal amount of the money award is paid. This subsection applies only to judgments of the Supreme Court, the Court of Appeals, the Oregon Tax Court and circuit courts.

(6) Moneys collected as interest under a criminal judgment may be applied against costs of collection. Except as provided in subsection (7) of this section:

(a) Any amounts of moneys collected as interest on judgments of the Supreme Court, Court of Appeals, Oregon Tax Court or circuit courts that remain after payment of collection costs shall be deposited in the Criminal Injuries Compensation Account to be used for the purposes specified in ORS 147.225.

(b) Any amounts of moneys collected as interest on judgments of the municipal or justice courts that remain after payment of collection costs shall be deposited in the general fund of the city or county in which the court operates and be available for general governmental purposes.

(7) After any payment of costs of collection, any interest collected on an award for restitution on and after January 1, 2012, must be paid to the person in whose favor the award of restitution was made.

(8) As used in this section, "criminal judgment" means a judgment entered in a criminal action as defined in ORS 131.005.

SECTION 2. ORS 137.295, as amended by section 1, chapter 1064, Oregon Laws 1999, section 23, chapter 823, Oregon Laws 2001, section 3, chapter 687, Oregon Laws 2003, and section 5, chapter 564, Oregon Laws 2005, is amended to read:

137.295. (1) When a defendant convicted of a crime or violation in the circuit, justice or municipal court, or allowed diversion in such a case, makes a payment of money to be credited against monetary obligations imposed as a result of that conviction or diversion, the clerk shall distribute the payment as provided in this section.

(2) There are four categories of monetary obligations. The categories are as follows:

(a) Category 1 consists of compensatory fines under ORS 137.101.

(b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS 419C.450 and a monetary obligation imposed under ORS 811.706.

(c) Category 3 consists of the unitary assessment imposed under ORS 137.290, costs imposed under ORS 151.505 or 161.665 and those fines, costs, forfeited security amounts and other monetary obligations payable to the state or to the General Fund of the state in criminal and quasi-criminal cases for which moneys the law does not expressly provide other disposition.

(d) Category 4 consists of monetary obligations imposed upon the defendant as a result of the conviction, but which do not fall under category 1, category 2 or category 3 of the obligation categories. These include, but are not limited to, fines and other monetary obligations that the law expressly directs be paid to an agency, person or political subdivision of the state, and any other obligation to reimburse for payment of a reward under ORS 131.897.

(3) As long as there remains unpaid any obligation under category 1, [*including any interest accrued on that obligation,*] the clerk shall credit toward category 1 all of each payment received.

(4) After the total obligation has been credited under category 1, then as long as there remains unpaid any obligation under both categories 2 and 3, [*including any interest accrued on those obligations,*] the clerk shall credit toward each such category 50 percent of each payment received.

(5) The clerk shall monthly transfer [*the principal amount of*] the moneys credited under category 1 and under category 2[, *and all interest that has accrued on those principal amounts,*] to the victims for whose benefit moneys under that category were ordered paid. If there are multiple victims for

whose benefit moneys have been ordered paid under category 2, the clerk shall first transfer moneys credited under category 2 to the victim, as defined in ORS 137.103 (4)(a). When the moneys due the victim, as defined in ORS 137.103 (4)(a), have been fully paid, the clerk shall transfer moneys credited under category 2 to the Criminal Injuries Compensation Account if moneys have been ordered paid to the account under category 2. When the moneys due the account have been fully paid, the clerk shall transfer moneys credited under category 2 to any other victims, as defined in ORS 137.103 (4)(b) or (d), for whose benefit moneys under that category were ordered paid in proportion to the amounts ordered. The clerk of a circuit court shall monthly transfer [*the principal amount of*] the moneys credited under category 3 as directed by the State Court Administrator for deposit in the State Treasury to the credit of the Criminal Fine and Assessment Account established under ORS 137.300. The clerk of a justice or municipal court shall monthly transfer [*the principal amount of*] the moneys credited under category 3 to the Department of Revenue as provided in ORS 305.830. [*The clerk shall transfer all interest on the principal amount of the moneys credited under category 3 to the State Court Administrator for deposit in the Court Facilities Account established under ORS 1.190.*]

(6) When the entire amount owing for purposes of either category 2 or category 3 has been credited, [*including any interest that has accrued on the amount,*] further payments by the defendant shall be credited by the clerk entirely to the unpaid balance of whichever of those categories remains unpaid, until both category 2 and category 3 have been entirely paid.

(7) When category 1, category 2 and category 3 have been entirely paid and any obligation remains owing under category 4, the clerk shall credit further payments by the defendant to the obligations under category 4 and shall monthly transfer [*the principal amount of*] the moneys so received to the appropriate recipient, giving first priority to counties and cities entitled to revenues generated by prosecutions in justice and municipal courts and giving last priority to persons entitled to moneys as reimbursement for reward under ORS 131.897. [*The clerk shall transfer all interest on the principal amount of the moneys credited under category 4 to the agency, person or political subdivision of the state entitled to the principal amount. All interest on monetary obligations owing to the state under category 4 shall be transferred to the State Court Administrator for deposit in the Court Facilities Account established under ORS 1.190.*]

(8) Notwithstanding subsection (5) of this section, the clerk of a circuit court shall monthly transfer the moneys attributable to parking violations to the State Treasurer for deposit in the General Fund.

(9) The clerk of a justice or municipal court must make the transfers required by this section not later than the last day of the month immediately following the month in which a payment is made.

SECTION 3. ORS 1.190 and 1.192 and section 5, chapter 1064, Oregon Laws 1999, as amended by section 1, chapter 394, Oregon Laws 2003, are repealed.

SECTION 4. The amendments to ORS 137.183 by section 1 of this 2007 Act apply only to judgments that are entered on or after July 1, 2007.

SECTION 5. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by House March 29, 2007

Repassed by House June 7, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate June 4, 2007

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President of Senate

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State